

Note: Some of the alleged facts below come from a lengthy telephone interview and settlement discussion, in lieu of a deposition that occurred on February 6, 2003. Participating in the call were counsel for Trans-Resources Inc.(TRI), Messrs. Edward Klimerman and Stephen A. Marshall of Sonnenschein, Nath & Rosenthal, 1221 Avenue of the Americas, New York, NY 10020-1089, Tel. 212.768.6700, and their client Mr. Arie Genger (who controls TRI through his controlling ownership interest in TPR Investment Associates, Inc.). Also participating were an Assistant U.S. Attorney (SDNY) and counsel and representatives of EPA Region 6, EPA Region 4, Arkansas DEQ, and Mississippi DEQ. Other information was derived from the EPA Action Memorandum of January 16, 2003 for CERCLA removal action and other agency sources.

The Cedar Chemical Corporation (“Cedar”) Site is a former specialty chemical manufacturing facility located on about 48 acres of property at West Helena, Arkansas. Its business address is 49 Phillips Road, #311, Helena, Arkansas 72342 (“Cedar Site,” “Cedar facility,” or the “Site”). Immediately prior to bankruptcy adjudication its corporate Headquarters was at 375 Park Avenue, New York, NY 10152, co-located with Cedar parent companies Nine West Corporation and Trans-Resources Inc. (TRI). Cedar is a wholly owned subsidiary of the Nine West Corporation, which is a holding company that is wholly owned by TRI. Cedar formerly maintained principal business offices at 5100 Poplar Avenue, Ste. 2414, Memphis, Tennessee 38137, as did its subsidiary Vicksburg Chemical Company and a joint venture with RiceCo.

The Cedar Site is located in the Helena-West Helena industrial park in Phillips County, Arkansas, just south of West Helena, Arkansas. The Site is bounded by Arkansas Highway 242 (Phillips Road) to the northwest, the Union Pacific railway to the northeast, and other industrial park properties to the southeast and southwest. The land across Highway 242 from the Site is a rice growing agricultural area in the Mississippi River Flood Plain. Residential areas are located within one half mile southwest and northeast of the Site. The Site has been subject to removal action carried out by the United States Environmental Protection Agency (EPA) Region 6.

The Cedar Site consists of six (6) separate processing or production units, laboratories, a finished goods warehouse, a storm water pond, a wastewater treatment plant, a spare parts warehouse, a maintenance shop, an administration building and various other buildings on 48 acres. Production Unit 1 was used for production of the following custom products: BFG Resin, Pentabrom, Metolachlor, Cyclanilide (re-wash from Unit 5), Methanol Recovery, 2-Amino-1-Butanol (2-AB) (distillation from Unit 5), and Ro-Neet. Unit 2 was used for production of Propanil, and Unit 3 was used for production of Diuron. Unit 4 was used for production of Aciflourfen. Unit 5 was used for production of the following custom products: Tramethamine, Ticon, Cyclanilide, and 2-Amino-1-Butanol (2-AB). Unit 6 was used for production of Dichloroaniline (DCA). Environmental issues associated with the Site included abandoned chemicals, buried drums, a constructed drum vault filled with unknown chemicals, ground water contamination, surface and subsurface soil contamination, and an abandoned storm water and wastewater treatment system.

Abandoned process, intermediate, and waste hazardous chemicals were the issue that required EPA time-critical removal action. Based upon documents provided by Cedar to the EPA On-Scene Coordinator (OSC), there were a number of hazardous chemicals present at the Site.

These hazardous substances included, but were not limited to, acetic acid, benzoic acid, carbon tetrachloride, butyl amine, 4-chloroaniline, 2-chloroethyl ether, copper, copper cyanide, cumene, 2,6-dichloroben- zonitrile, 1,2-dichloroethane, dichlorotoluene, Dimethyl sulfate, 2,4-dinitrotoluene, quinoline, diphenylamine, ethylamine, ethylene oxide, formic acid, formaldehyde, hexachlorobenzene, hydrofluoric acid, nitrobenzene, p-nitrobenzene, pentachloronitrobenzene, potassium cyanide, pyridine, sodium cyanide, sodium fluoride, sodium nitrite, 1,2,4-trichlorobenzene, triethylamine, zinc. All of these chemicals are “hazardous substances” as defined by Section 101(14) of Comprehensive Environmental Response, Compensation & Liability Act (CERCLA), 42 U.S.C. § 9601(14), and 40 C.F.R. § 302.4.

Site Operational History

The Site was originally constructed in 1970 as a Propanil manufacturing facility by the Helena Chemical Company. In 1971, Helena sold the company to J.A. Williams, which then transferred the plant to Eagle River Corporation, a company controlled by Ansul Company. At this time, the company began producing Dinoseb. In 1972, Ansul sold its interest in Eagle River Corporation back to J.A. Williams and the company was merged into the Vertac Chemical Corporation (Vertac). Vertac owned the Site until 1986, producing Propanil, alkyl phenols, herbicides, and arsenical compounds, for other companies, as a toll manufacturer. Contracted products included, but were not limited to, various herbicides, alkyl phenols, and arsenical compounds. Vertac sold the Site in 1986 to Cedar, and Vertac was placed in U.S. District Court receivership in 1987. That receivership still exists to this date as a result of EPA cost recovery and enforcement litigation under CERCLA associated with the Vertac Jacksonville, Arkansas chlorophenoxy herbicides facility. *United States v. Vertac Chemical Corporation*, No. 4:80CV00109 GH (E.D.Ark.). That litigation is still active and on appeal to the United States Court of Appeals for the Eighth Circuit for the second time with the United States holding a CERCLA cost recovery judgment in excess of \$119,000,000.00. *United States v. Hercules Incorporated, et al.*, Nos. 05-3147, 3153 (8th Cir.). See *United States v. Vertac Chemical Corp.*, 364 F.Supp.2d 941 (E.D.Ark., 2005). See also *United States v. Hercules, Inc.*, 247 F.3d 706 (8th Cir., 2001). The court appointed receiver for Vertac is Mr. Lee S. Thalheimer, who is represented by Richard L. Ramsay, Esq., Eichenbaum, Liles & Hester, P.A., 124 West Capitol Ave., Ste. 1400, Little Rock, Arkansas 72203.

Cedar Chemical Corporation was acquired in 1988 by its most recent owner TRI, whose wholly owned subsidiary Nine West Corporation reportedly bought Cedar from a Swedish pharmaceutical firm named Fermenta. From 1988 to present, Cedar produced Propanil, as well as toll-manufactured herbicides and nitro-paraffin derivatives. Cedar constructed a facility in 1991 to manufacture a chemical called Dichloroaniline, which is the main ingredient in Propanil. There were also additional modifications to the facility for the production of various chemicals in the years since 1991.